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Local Counsel for Defendants

11 **IN THE UNITED STATES DISTRICT COURT**
12 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

13 TP-LINK USA CORPORATION,
14 Plaintiff,

15 v.

16 ADAM & SORA STARKE,
17 Defendants,

18 and

19 CAREFUL SHOPPER, LLC, *et al.*
20 Defendant-Counterclaimant-
Third-Party Plaintiff,

21 v.

22 TP-LINK NORTH AMERICA INC,
23 and
24 AUCTION BROTHERS, INC.
25 dba AMAZZIA,
Third-Party Defendants.

CASE NO: 8:19-cv-00082-JLS-KES

**ERRATA TO MOTION OF
CAREFUL SHOPPER LLC FOR
RECONSIDERATION of ECF 82
(ECF 85)**

Hearing Date: June 26, 2020

Hearing Time: 10:30 a.m.

Courtroom: 10A

Complaint filed: January 15, 2019

1 **TO THE COURT, ALL PARTIES AND THEIR ATTORNEYS OF RECORD**

2
3 PLEASE TAKE NOTICE THAT due to counsel's inadvertence in cutting
4 and pasting the wrong version of certain text from his files, now found at footnote 4
5 on page 13 of ECF 85, being Careful Shopper's Motion for Reconsideration, the
6 following text appears:
7

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9
10 This is not the first occasion that Careful Shopper has had to move to strike a
11 submission by TP-Link found to violate fundamental fairness. During
12 jurisdictional discovery in the Eastern District of New York, TP-Link evaded
13 various discovery obligations by representing to Magistrate-Judge Levy that
14 TP-Link would not rely on a Constitutional argument in its motion to dismiss
15 for want of personal jurisdiction. The Motion to Dismiss, however, contained
16 a Constitutional Due Process argument which TP-Link sought to justified as
17 "related to." The gambit was to mislead Plaintiff and the Court into limiting
18 Plaintiff's discovery to "at-suit" interactions between TP-Link and Plaintiff,
19 and thereafter argue that Plaintiff cannot show the aggregate/quantitative
20 "minimum contacts" demonstrating the desirability or fairness" of a state's
21 exercise of jurisdiction, *i.e.*, Constitutional propriety. *J. McIntyre Mach., Ltd.*
22 *v. Nicastro*, 564 U.S. 873, 131 S. Ct. 2780, 180 L. Ed. 2d 765 (2011).
23
24 Magistrate-Judge Levy heard the Motion to Strike on February 14, 2019 and
25 agreed fully with Plaintiff that any Constitutional argument, as far as he was
26
27
28

1 concerned after conducting the Rule 37 motion proceeding and reviewing its
2 transcript, was “off the table” Judge Levy was about to order all unmade
3 discovery to be forthwith made when TP-Link counsel proffered that it would
4 withdraw its Constitutional argument rather than conduct further discovery.
5
6 See S. Dec. at ¶8.
7

8
9 The 4th sentence in this paragraph is incorrect. It is unfair to TP-Link. It is in the
10 paragraph only due to inadvertence, as stated above, when counsel transferred text
11 from a document created many months ago, thinking it did not have the sentence
12 four language. Undersigned counsel apologize to the court and to TP-Link for this
13 error. It cannot be said that TP-Link intended to mislead Magistrate-Judge Levy or
14 undersigned counsel.
15

16
17 The paragraph will be revised and a revised motion for reconsideration will
18 be filed as promptly as possible. Paragraph 4 will be revised to read substantially as
19 follows:
20

21
22 This is not the first occasion that Careful Shopper has had to move to strike a
23 submission by TP-Link found to violate fundamental fairness. During
24 jurisdictional discovery in the Eastern District of New York, TP-Link avoided
25 various discovery requests, in context, by representing to Magistrate-Judge
26 Levy that TP-Link would not rely on a Constitutional argument in its motion
27
28

1 to dismiss for want of personal jurisdiction. The Motion to Dismiss, however,
 2 contained a Constitutional Due Process argument which TP-Link sought to
 3 justify as “related to.” Magistrate-Judge Levy heard Careful Shopper’s
 4 Motion to Strike on February 14, 2019 and agreed fully with Plaintiff that,
 5 while TP-Link counsel did not intend to mislead the court and counsel, any
 6 Constitutional argument, as far as he was concerned after conducting the Rule
 7 37 motion proceeding and reviewing its transcript, was “off the table.” Judge
 8 Levy was about to order all unmade discovery to be forthwith made when TP-
 9 Link counsel proffered that it would withdraw its Constitutional argument
 10 rather than conduct further discovery. Judge Levy docketed the order as on
 11 consent, but TP-Link “consent” resulted only as above described. See S. Dec.
 12 at ¶8.

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 17 Respectfully submitted,

18
 19 Dated: April 11, 2020

20 /s/ Mark Schlachet
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